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3 **IN THE UNITED STATES DISTRICT COURT**
4 **FOR THE DISTRICT OF ARIZONA**

5 Charles Guy Garten,

6 Petitioner,

7 v.

8 Arizona, State of, et al.,

9 Respondents.

No. CV-13-00227-PHX-ROS

ORDER

10
11 Before the Court is a report and recommendation from the Magistrate Judge, (Doc.
12 18), pursuant to 28 U.S.C. § 636(b)(1)(B) and Rule 72(b)(1), Fed. R. Civ. P. No objection
13 to the report and recommendation was filed and the time for doing so has expired. *See*
14 Fed. R. Civ. P. 72(b)(2).

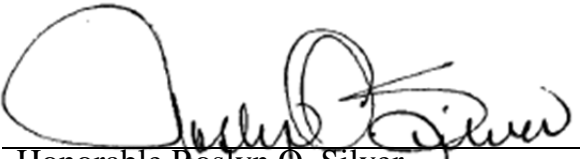
15 The court accepts the recommended decision of the United States Magistrate
16 Judge within the meaning of Rule 8(b), Rules Governing § 2254 Cases.

17 Accordingly,

18 **IT IS ORDERED** the Second Amended Petition for Writ of Habeas Corpus (Doc.
19 6) is **DENIED**.

20 **IT IS FURTHER ORDERED** the Certificate of Appealability and leave to
21 proceed *in forma pauperis* on appeal is **DENIED** because dismissal of the Second
22 Amended Petition is justified by a plain procedural bar and jurists of reason would not
23 find the procedural ruling debatable.

24 DATED this 10th day of October, 2014.

25
26 
27 Honorable Roslyn O. Silver
28 Senior United States District Judge